# National Infrastructure Advisory Council (NIAC)

## Sector Partnership Model Working Group

**Initial Report and Findings**
**October 11, 2005**

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## NIAC Question

❑ The Sector Partnership Model represents a new level of collaboration between the private sector and government.

❑ The conceptual framework of the Model is laid out in the Interim National Infrastructure Protection Plan (I-NIPP) and has its foundation in NIAC recommendations.

❑ DHS requested that the NIAC form a Working Group to develop advice and recommendations for the structure, function, and implementation of the Model.

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# Proposed Framework as depicted in the I-NIPP

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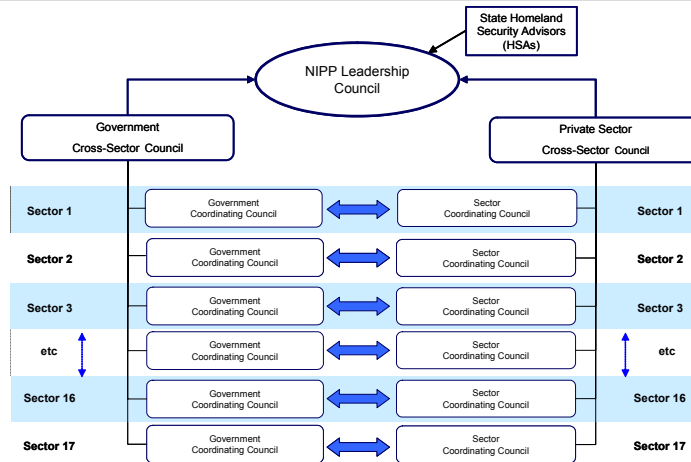
# Core Deliverables

1. **Structure**
   - Review conceptual structure and identify and validate composition and representation
2. **Roles and Responsibilities**
   - SCCs and GCCs
   - "Charter" elements (for overall structure and sub-elements)
     - Purpose / Rules of engagement
3. **Potential Operational Frameworks**
   - Assess legal components of possible operational frameworks
   - Identify and review options: FACA/non FACA
   - Review authorities and core requirements to implement
4. **Processes**
   - Key processes to support true "partnership"
   - Principles of operations

# Deliverable 1 –
## Validate Conceptual Structure

Recommendations:

☐ The conceptual structure of the Sector Partnership Model is acceptable with the following modifications:

  ■ SCCs and GCCs are the appropriate bodies to comprise the base level of the model.

  ■ The Partnership for Critical Infrastructure Security (PCIS) should assume the role of the Private Cross-Sector Council.

  ■ PCIS must have a government counterpart -- the Government Cross-Sector Council consisting of the GCC Chairs.

  ■ Eliminate the top level of the organization (the NIPP Leadership Council) as it is redundant.

  ■ The Government Cross-Sector Council must engage the state Homeland Security Advisors in the Model.

  ■ Remove directional arrows; Arrows give connotation of subordination. SCCs are independent of government. Lines should merely depict information flow.

  ■ Communication will generally be from the Sector Specific Agency to the Sector Coordinating Council.  If DHS, or other government agencies, have a request of the SCC, they will go through the SSA.

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# New Framework with changes
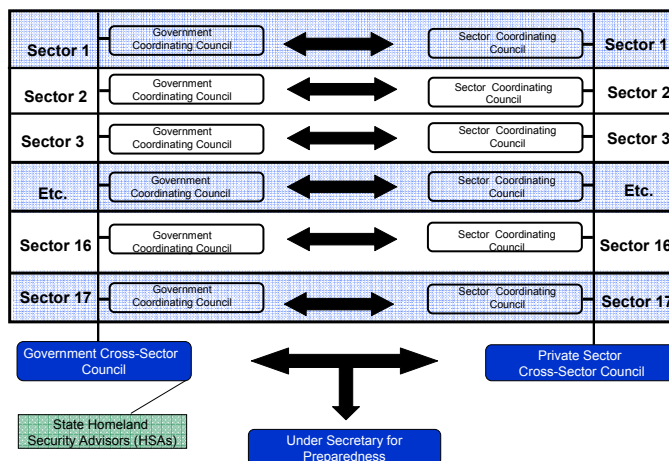


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# Deliverable #1 –
## Validate Composition and Representation

### Recommendation:

- ☐ DHS should recognize all Sector Coordinating Councils equally, in the manner in which they have chosen to organize themselves.
- ☐ SCCs should constitute themselves in a way that provides for appropriate governance and representation for the sector as a whole.

# Deliverable #2 –
## Roles and Responsibilities

- ☐ Roles and Responsibilities of GCCs and SCCs were defined, reviewed and generally accepted.
  - ■ The list is not finite; as CIP evolves so will the functions of coordinating councils
  - ■ Sectors are not identical – all functions may not be applicable to all sectors
- ☐ It was determined that some functions of the SCCs and the PCIS could constitute giving advice to the government.

# Deliverable #2 – Roles and Responsibilities

Examples of SCC Functions:

☐ Represent a primary point of entry for government into the sector for addressing the entire range of infrastructure protection activities and issues.

☐ Serve as a focal point for communication and coordination between owners and operators and suppliers, and with the government during response and recovery.

☐ Identify, implement and support the information-sharing capabilities and mechanisms that are most appropriate for the sector.

☐ Facilitate inclusive organization and coordination of the sector's policy development, infrastructure protection planning, and plan implementation activities.

☐ Advise on integration of State, Local, and Regional Planning initiatives with Federal initiatives, such as the State and Local Role in Sector Specific Plans, the NIPP, and NRP.

☐ Provide input to the government on research and development efforts.

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# Deliverable #3 – Potential Operational Framework

☐ Critical Infrastructure Protection requires continuous and open dialogue among the public and private partners in this Model.

☐ Such interaction may trigger the Federal Advisory Committee Act (FACA).

☐ The requirements of the FACA would inhibit the communication, dialogue and advice that must be shared between the GCCs and SCCs and between the PCIS and the Government Cross-Sector Council.

☐ Section 871 of the Homeland Security Act of 2002 authorizes the establishment of advisory committees as the Secretary may deem necessary and provides that the Secretary may exempt an advisory committee established under this section from FACA.

# Deliverable #3 – Potential Operational Framework

## Recommendation:

☐ Consensus agreement was reached that the operational framework for the Sector Partnership Model be based on an unconditional 871 exemption.

☐ All SCCs and the PCIS should be self-organized, recognized as advisory committees on critical infrastructure protection and response/recovery matters and be exempted from all requirements of FACA:

- ◼ The necessary information sharing and advice from the sectors would otherwise be hampered by legal uncertainty.
- ◼ Protection is needed against the risk of disclosure of critical vulnerabilities.
- ◼ Communication between GCCs and SCCs will need to occur on an ad-hoc basis often at a moment's notice or in response to an emergency.

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# Deliverable #4 – Key Operating Principles

☐ A true partnership is a collaboration of equals; all partners bring value.

☐ SCCs are self-formed entities.  The private sector is responsible for and determines group formation, membership, and governance.

☐ Government communication to the sectors should primarily occur through the established SCCs, supported as necessary by the councils' designated information sharing mechanisms.

- ◼ Exceptions do exist – for example concerning threat based information

☐ The Sector Specific Agency acts as the lead for coordinating with the sector.

- ◼ Sectors will use the SSA as their government interface. DHS should go through that SSA when interfacing with a sector.
- ◼ Sectors having a DHS office as their Sector Specific Agency will use that DHS office as their government interface.
- ◼ All government agencies should recognize the role of the SSA, and use the SSA as their means to interface with the Sector Coordinating Councils.

## Deliverable #4 (cont'd.)–
## Key Processes and Tools to support the Partnership

- ❑ All participants in the Partnership Model must be fully engaged in the development, implementation and continuous improvement of national plans including but not limited to:
  - ■ NIPP
  - ■ SSPs
  - ■ NRP
  - ■ NIMS
- ❑ "Disasters happen at a regional level not at a national level."
  - ■ Ensure the Model promulgates the activities down to the regional level.

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## Deliverable #4 (cont'd.) –
## Key Processes and Tools to support the Partnership

**Recommendation**:

- ❑ PCII and HSIN-CS are tools that may be used to facilitate information sharing, given the following:
  - ■ The concept of "originator control" must be recognized for all information submitted by the private sector to PCII, allowing the submitter to limit how the information is used.
  - ■ When requesting information, the government must clarify why they need the information and how they will use it.
  - ■ All private sector responses to a government data call should automatically be deemed PCII, when not regulated by law elsewhere.
  - ■ Legal protections must ensure that information voluntarily submitted to PCII will not be used for existing or additional regulation or government mandates.
  - ■ PCII protection must be extended to CIP information voluntarily submitted by industry to agencies other than DHS; time is of the essence when dealing with threat info
  - ■ All information housed on HSIN-CS remains the property of the private sector and cannot be subject to a FOIA request.
  - ■ The HSIN-CS should allow submission of PCII through an automated tool as long as the distinction that it is now PCII is clearly articulated to all users.

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# Other Recommendations

- The Working Group believes previous NIAC recommendations are relevant to this report as well, for example those delivered on October 14, 2003:

  - Crisis management plans should exist for each sector and be tested. Testing should include validation of cross-sector coordination.

  - Establish a command center that provides a call tree, alerting mechanism, and communication point for use by critical sectors during an emergency.

  - DHS should sponsor crisis management exercises that include the participation of the critical infrastructures.

  - Provide a framework for public and private emergency management interaction including national sector, state, regional and local levels.

  - Explore the potential for creating tax incentives or other instruments to incent the private sector to enhance the resiliency of the critical infrastructures.

  - The national labs should focus their interdependency modeling and research on the regions and sectors whose failure would have the highest impact on the economy and national security.

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# Summary

- The public/private partnership is vital to the protection of our national critical infrastructure as well as our ability to respond to disasters.

- Ensuring the sovereignty and equality of all stakeholders will maintain a true partnership.

- Hurricanes Katrina and Rita have pointedly demonstrated how critical it is to directly integrate infrastructure providers into the national preparedness and response effort.

  - We must ensure that the partnership is further integrated and embedded into national plans and the framework for engagement be flexible enough to meet tomorrow's challenge's as well as today's.

- It is imperative that:

  - The Partnership Model be implemented immediately and that the HSA Section 871 exemption is granted across the partnership framework.

  - National plans for infrastructure preparedness and response be reviewed to ensure adequate integration of all partnership stakeholders.

  - Information sharing strategies and processes be reviewed to ensure adequate support of both preparedness and response goals.

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